REMARKS AND ARGUMENTS

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-10, 12-15, 17-32 are presently pending. Claims amended herein are 1, 9, 15, and 24. Claims 11 and 16 were previously canceled. No claims are canceled or added herein.

Claim Amendments

Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 9, 15, and 24 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and to more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Amendments to these claims are fully supported by the Application and therefore do not constitute new matter. For example, amendments to claims 1, 9, 15, and 24 are supported by at least p. 14 line 9, p. 27 line 17 to p. 28 line 10, p. 31 line 25 to p. 33 line 3, and p. 34 lines 25-31.

Claim Rejections under 35 U.S.C. § 103

The Examiner rejects claims 1-32 under 35 U.S.C. § 103. The Examiner's rejections are based upon the following references alone and/or in combination:

Knauerhase: *Knauerhase et al.*, US Patent Publication No. 20030104819;

Callegari: *Callegari*, US Patent Publication No. 20030055983;

Pechatnikov: *Pechatnikov et al.*, US Patent No. 6898516;

Miyamoto: *Miyamoto*, US Patent Publication No. 20030114171;

Zmolek: *Zmolek*, US Patent Publication No. 20030154293; and

Giniger: *Giniger et al.*, US Patent No. 6985742.

For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious. Accordingly, Applicant respectfully requests that the § 103 rejections be withdrawn and the case be passed along to issuance.

Obviousness Rejections

Lack of Prima Facie Case of Obviousness (MPEP § 2142)

Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon Knauerhase in view of Callegari and Pechatnikov

The Examiner rejects claims 1-3, 5, 7-10, 12-15, 17-18, 24 under 35 U.S.C. § 103(a) as being unpatentable over Knauerhase in view of Callegari and Pechatnikov. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claims 1, 9, 15 and 24

Applicant submits that the combination of Knauerhase, Callegari and Pechatnikov does not teach or suggest at least the following elements as recited in these claims (with emphasis added):

- "the presence server defining one or more associated location/presence correlation pairs defining a **geographical area** including a **user-defined boundary around one or more locations** and corresponding presence status; wherein a **presence status** *of the user* is maintained if the network client is **within the borders of the geographical area**"

- "wherein said plurality of network clients are configured to transmit position information received via said positioning controller to said positioning server **via**

said communications controller, said communications controller comprising a

telephony controller"

- "wherein the location/presence correlation pairs further include availability status indicia over a **plurality of media associated with the us***er*"

- "a **first timer** for providing a timer tick for **confirming functionality** and a **second timer** for providing one or more **hysteresis indications** to prevent speed and boundary toggling."

First, the cited references fail to disclose, teach or suggest, alone or in combination, "**location/presence correlation pairs** defining a *geographical area* including a **user-defined** *boundary* defined *around one or more locations* and corresponding presence status." Knauerhase at most describes individual locations such as the meeting room, movie theater, car and restroom (*see* Knauerhase at paragraphs 60, 62, 67 and 69), and does not teach or suggest the user defining a *boundary* (or perimeter) *around* **such locations**.

The Examiner relies on Callegari to teach a **user-defined boundary**. *See Office Action dated 12/24/2008 ("Action")* at p. 3. However, Callegari at most describes the user being able to "manually send location information for each site that is reached by entering an address or street intersection." *See*, for example, Callegari at paragraph [0101]. However, such location information merely updates the presence server with the location of the user, so that the user may **receive information content** regarding various attractions and amenities during a tour. *See*, for example, Callegari at paragraphs [0099]-[0101]. Even assuming that the location information can be said to be manually defined, such location information may not be equated to a **user-defined** *boundary* as it does not define a *boundary* **around one or more locations** *within*

which a presence status of the user is maintained if the network client is within the borders.

Second, the cited references nowhere disclose, teach or suggest, alone or in combination, a **telephony interface** for transmitting position updates or uploading presence rules. The Examiner relies on the combination of Knauerhase and Callegari to teach the telephony interface. Specifically, the Examiner refers (Action p. 12) to Callegari par. 26, lines 1-5; par. 28, 15 to remedy the deficiencies of Knauerhase. Applicant respectfully disagrees.

While Knauerhase provides a network adapter, this does not appear to be a telephony interface. Additionally, while the network of Knauerhase appears to be able to include a telephone network, nothing in Knauerhase teaches or suggests that the presence information is transmitted via that network. For that purpose, Knauerhase appears to contemplate only LAN connections and Bluetooth connections. Similarly, while Callegari describes receiving a journal entry in electronic medium from a consumer device (see, for example, Callegari at paragraphs [0026] and [0028]), nothing in Callegari teaches nor suggests the consumer device transmitting position updates or presence rules via a telephony controller.

Third, the cited references nowhere disclose, teach or suggest, alone or in combination, **location/presence correlation pairs** further including **availability status indicia** over a *plurality of media associated with the user*. Pechatnikov is relied on for allegedly teaching "different devices that support the availability of displaying the presence or location of the user on the coverage of an area." *See* Action p. 3. Applicant respectfully disagrees.

In Knauerhase, all presence rules are dependent solely upon the status of the *particular* **mobile device** and not the particular user. *See*, for example, Knauerhase at Abstract. That is, the presence rules of Knauerhase define a presence with respect to the device alone and not *plural media* or devices, as generally recited in the claims at issue. Contrary to the Examiner's assertion, Pechatnikov fails to compensate for the defects of Knauerhase. In particular, Pechatnikov only describes a navigation system for displaying a map on a mobile client device, which has nothing whatsoever to do with providing presence or availability information of a user. While Pechatnikov (e.g., Col. 11 lines 41-65) describes the driver 300 using a wireless communicator 302 (e.g. personal digital assistant, cellular telephone) to communicate with the map server 306, nowhere in Pechatnikov teaches or suggests the **map server 306 defining** *availability status indicia* over a *plurality of media* **associated with** *the driver.*

Finally, none of the cited references appear to disclose, teach or suggest the recited **timers** or such functionalities. More particularly, the cited references nowhere teach or suggest, alone or in combination, "a **first timer** for providing a timer tick for **confirming functionality** and a **second timer** for providing one or more **hysteresis indications** to prevent speed and boundary toggling."

As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

No Reason to Combine References

The Examiner admits that Knauerhase fails to teach including a user-defined boundary and location/presence correlation pairs that include availability status over a plurality of media associated with a user. To compensate for these defects, the

Examiner relies on Callegari and Pechatnikov. The Examiner indicates (Action p. 3-4) the following reason why one of ordinary skill in the art would combine the teaching of these references:

> It would have been obvious to one skill in the art at the time of the invention to modify Knauerhase, such that the user may report or define his location and status available over different media devices, to provide means for monitoring the location or position more accurately and efficiently and in accordance to the user's preferences.

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). "Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed." *Id.*

In his rejection, the Examiner's articulated reasoning why one of ordinary skill in the art at the time of the invention would have looked towards and combined the disclosure of Knauerhase, Callegari and Pechatnikov is because it "provide[s] means for monitoring the location or position more accurately and efficiently and in accordance to the user's preferences." Applicant respectfully submits that the Examiner's reason is merely conclusory without any rational underpinning to support the legal conclusion of obviousness. The Examiner, in concluding obviousness, has overlooked or failed to take into consideration the interrelationship of the references and the background knowledge possessed by a person having ordinary skill in the art to determine whether

there was an apparent reason to combine the known elements in the fashion as claimed. See *KSR* at 14.

For example, Knauerhase, Callegari and Pechatnikov describe different fields of endeavor, and the matter with which each reference deals would not have logically commended itself to an inventor's attention in considering his or her invention as a whole. More particularly, Knauerhase describes a method for automatically updating presence information for a mobile device when a presence rule is met. *See*, for example, Knauerhase at Abstract. Callegari describes a method for providing a virtual journal entry to a selected person when the selected person is within the vicinity of the location of interest. *See*, for example, Callegari at Abstract. Callegari appears to be concerned with maintaining the presence of merchants in the presence server, and not of the mobile devices. *See*, for example, Callegari at paragraphs [0039] and [0053]. Pechatnikov describes a navigation system for displaying a map on a mobile client device, which has nothing whatsoever to do with providing presence or availability information of a user. *See*, for example, Pechatnikov at Abstract. A person of ordinary skill in the art will not be led to combine disclosures relating to systems for providing presence information, virtual journal entries and navigation information, as described by these cited references.

Furthermore, Callegari is relied on for allegedly teaching manually defining a geographical area. *See* Action p. 3. Even if true, however, Knauerhase teaches away from combination with Callegari by explicitly teaching that manual intervention is undesirable. *See*, for example, Knauerhase at paragraph [0004]. Thus, if anything, one of ordinary skill in the art would not have any rational reason to combine the references.

Absent this, there is no support for a legal conclusion of obviousness based on the cited references.

Moreover, even if there were a rational reason to combine the references, such a combination would still fail to disclose, teach or suggest the features of the claims at issue. For example, amended claim 1 requires a first timer for providing a timer tick for confirming functionality and a second timer for providing one or more hysteresis indications to prevent speed and boundary toggling. These, and other features of the claims at issue, as discussed above, are neither disclosed, taught nor suggested, alone or in combination, by the cited references.

Accordingly, Applicant therefore respectfully asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 2-3, 5, 7-8, 10, 12-14, 17-18

These claims ultimately depend upon independent claim 1, 9, or 15. As discussed above, claims 1, 9, and 15 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Based upon Knauerhase in view of Callegari and Pechatnikov and further in view of Miyamoto

The Examiner rejects claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Knauerhase in view of Callegari and Pechatnikov and further in view of Miyamoto. Applicant respectfully traverses the rejection of this claim and asks the Examiner to withdraw the rejection of this claim.

Claim 4 ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Miyamoto fails to compensate for the defects of Knauerhase, Callegari and Pechatnikov. For example, Miyamoto fails to teach or suggest the recited timers or such functionalities, as required by claim 1. Additionally, claim 4 may also be allowable for additional independent reasons. Accordingly, Applicant therefore respectfully asks the Examiner to withdraw the rejection of this claim.

Based upon Knauerhase in view of Callegari and Pechatnikov and further in view of Zmolek

The Examiner rejects claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Knauerhase in view of Callegari and Pechatnikov and further in view of Zmolek. Applicant respectfully traverses the rejection of this claim and asks the Examiner to withdraw the rejection of this claim.

Claim 6 ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, claim 6 may also be allowable for additional independent reasons. Zmolek fails to compensate for the defects of Knauerhase, Callegari and Pechatnikov. For example, Zmolek fails to teach or suggest the recited timers or such functionalities, as required by claim 1. Further, Zmolek appears to provide a system for interconnecting presence systems and devices to derive a presence across systems (see, for example, Zmolek at paragraphs [0049],

[0055], [0056]) rather than defining a single set of rules for multiple devices in a single system or device, as generally recited in the claims at issue.

As such, Applicant respectfully asks the Examiner to withdraw the rejection of this claim.

Based upon Knauerhase in view of Callegari and Pechatnikov and further in view of Giniger

The Examiner rejects claims 19-20, 22-23, 25-32 under 35 U.S.C. § 103(a) as being unpatentable over Knauerhase in view of Callegari and Pechatnikov and further in view of Giniger. Claims 19-20, 22-23, 25-32 ultimately depend upon independent claim 15 or 24. As discussed above, claims 15 and 24 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, these claims may also be allowable for additional independent reasons.

Knauerhase, Callegari and Pechatnikov have been discussed above. Giniger fails to compensate for the defects of Knauerhase, Callegari and Pechatnikov. Giniger is relied on for allegedly teaching providing position related information to mobile recipients. However, even assuming that the characterization of Giniger is correct, like Knauerhase, Callegari and Pechatnikov, Giniger fails to teach or suggest the features of the underlying claims. For example, Giniger still fails to teach or suggest the timers and their associated functionalities as recited in these claims.

Accordingly, Applicant respectfully asks the Examiner to withdraw the rejection of these claims.

Based upon Knauerhase in view of Callegari and Pechatnikov and further in view of Giniger and further in view of Miyamoto

The Examiner rejects claim 21 under 35 U.S.C. § 103(a) as being unpatentable over Knauerhase in view of Callegari and Pechatnikov and further in view of Giniger and further in view of Miyamoto. Claim 21 ultimately depends upon independent claim 15. As discussed above, claim 15 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, claim 21 may also be allowable for additional independent reasons. Giniger and Miyamoto fail to compensate for the defects of Knauerhase, Callegari and Pechatnikov. For reasons similar to those discussed above, Applicant respectfully submits that this claim, too, is allowable.
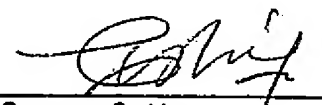
Conclusion

In view of the foregoing, Applicants believe that all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Should the Examiner believe that a telephone conference would expedite prosecution of this application, please contact me at your convenience.

Date: April 24, 2009

Respectfully submitted,

Carmen S. Ng
Registration No. 61,281
Representative for Applicant

SIEMENS CORPORATION
Customer Number: 28524
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830

Attn: Elsa Keller
Direct Dial: 1-732-321-3026